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David Aaron Crowther

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Robert D. Shedd, Patent Operations
THOMSON Licensing LLC
P.O. Box 5312
Princeton, NJ 08543-5312

EXAMINER

BADAWI, SHERIEF

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte DAVID AARON CROWTHER, RAVINDRA KUMAR RAMA
REDDY, ANDREW EUGENE ADKINS, and NANYU CAO

Appeal 2009-005489
Application 10/519,856
Technology Center 2100

Before JOSEPH L. DIXON, THU A. DANG, and
STEPHEN C. SIU, *Administrative Patent Judges*.

DIXON, *Administrative Patent Judge*.

DECISION ON REQUEST FOR REHEARING

This is a decision on Appellants' Request for Rehearing, filed on May 3, 2010 of our Decision under 35 U.S.C. § 134, mailed on March 1, 2010, reversing the Examiner's final rejection of claims to 1-11. We have jurisdiction under 35 U.S.C. § 6(b).

We Grant the Request for Rehearing, but Decline to Modify our Decision.

I. STATEMENT OF THE CASE

The Invention

The invention at issue on appeal relates to a method for managing a plurality of storage devices (Spec. 1).

The Illustrative Claim

Claim 1, an illustrative claim, reads as follows:

1. A method for managing at least one storage device, comprising the steps of:
 - (a) identifying the at least one storage device;
 - (b) establishing a database containing information about the identified at least one storage device, wherein the information about the identified at least one storage device includes operating characteristics of the identified at least one storage device;
 - (c) providing to the user a graphical user interface in accordance with the information in the database, the graphical interface displaying at least one menu option for the identified at least one storage device for the user to select at least one of (i) display of the information about the identified at least one storage device and (ii) execution of at least one process to control the operation of the at least one storage device;
 - (d) processing the user-selected menu option, said processing further including: determining if the requested execution of the at least one process complies with the operational rules for the identified at least one storage device, and if not, blocking execution of the at least one process, and generating an error message; and

(e) automatically updating the graphical user interface in response to the processing of the user-selected menu option.

The References

The Examiner relies on the following references as evidence:

Lavallee	US 7,003,527 B1	Feb. 21, 2006 (filed June 27, 2002)
Baldwin	US 7,171,624 B2	Jan. 30, 2007 (filed Oct. 5, 2001)

The Rejection

The following rejection was before us for review:

Claims 1-11 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Baldwin and Lavallee.

II. ISSUE

Have the Appellants specifically identified any points misapprehended or overlooked by the Board in its decision, specifically whether there are two or more plausible claim constructions for the claimed operational rule?

V. ANALYSIS

In the Request for Rehearing, Appellants contend that the Board misapprehended or overlooked the claimed term “operational rules” of independent claims 1 and 7 that is mapped as “configuration rules” by the Appellants and could, thus, have two or more possible claim constructions (Request 3). The Appellants further advance that “the rules” referred to in

the specification, e.g. p.3, lines 26-p.4, line 6, are not limited only to configuration rules.” *Id.*

We disagree with Appellants' contentions. We find that the Appellants' assertions were not logically and factually correct. The fact that a database containing both configuration rules and operational rules is not logically sufficient to draw the conclusion that the “rules” mentioned in the page 4, lines 1-6 of Specification “provides support for the rules to include operational rules, and not just configuration rules.” (*See* Request 4). There are many dots needed to be connected in order to draw that conclusion that the term “rules” recited in the specific sentence of the specification provides support for both configuration rules and operational rules from the fact. In fact, in contrast to the Appellants' assertion, the COM/DCOM layer 20 in Fig. 1 expressly mentions “STORAGE DEVICE SPECIFIC CONFIGURATION RULES ARE DETERMINED AND ENFORCED. ONLY THE OPERATIONS THAT ADHERE TO THE DATABASE VENDOR SPECIFIC RULES ARE ALLOWED TO PROCEED. IF AN ILLEGAL COMMAND IS ATTEMPTED, AN ERROR MESSAGE IS RETURNED TO THE GUI . . .” (Spec. Fig. 1, element 20), which is similar to the description in page 4, lines 1-6, of the Specification. Thus, we conclude that the term “the rules” referred to the Specification, page 4, lines 1-6, do not provide the support of both the configuration rules and the operational rules. Therefore, the scope of the “operational rules” in the claims 1 and 7 becomes indefinite (*See* Dec. 5-6).

Furthermore, the Appellants seem to imply that the term “operational rules” is now being used in a generic sense in the claim language to refer to more than one type of rule. We find this problematic in the instant

prosecution since the Specification uses the same term operational rule in a specific manner in the instant disclosure and to broaden that interpretation at this late stage would be inappropriate with respect to the interpretation and application of the prior art teachings. Furthermore, the interpretation which we set forth was a reasonable reading of the claims in light of the disclosure at the time of the appeal. Accordingly, the Appellants' arguments do not specifically identify any points misapprehended or overlooked by the Board in its Decision.

VII. CONCLUSION

For the aforementioned reasons, we find that the Appellants' arguments do not specifically identify any points misapprehended or overlooked by the Board in its decision.

VIII. DECISION

We grant the request for rehearing to the extent that it was considered, but we decline to modify our decision based upon Appellants' arguments.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a).

REQUEST DENIED

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ROBERT D. SHEDD
THOMSON LICENSIGN L.L.C.
P.O.BOX 5312
PRINCETON, NJ 08543-5312